

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LAZARO BURGOS REYES, 20603582,

Plaintiff,

v.

ORDER
07-CV-779A

SHERIFF THOMAS BEILEIN, et al.,

Defendants.

The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(B). Defendants filed motions to dismiss the case, or in the alternative, precluding plaintiff from offering evidence. On May 8, 2009, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that defendants' motions be denied to the extent they seek to dismiss the complaint and ordered that the motions be denied to the extent they seek to preclude evidence.

The Court has carefully reviewed the Report, Recommendation and Order, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report, Recommendation and Order, defendants' motions are denied to the extent they seek to dismiss the complaint and are also denied to the extent they seek to preclude evidence.

This case is referred back to Magistrate Judge McCarthy for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: June 4, 2009